

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION
CLAIM NO. H404428**

**ALESHA M. DABNEY,
EMPLOYEE**

CLAIMANT

**DOLLAR GENERAL STORE,
EMPLOYER**

RESPONDENT

**DOLGENCORP, LLC/
SEDGWICK CLAIMS MG'T SERVICES, INC.
CARRIER/TPA**

RESPONDENT

**OPINION FILED MAY 16, 2025,
DENYING RESPONDENTS' MOTION TO DISMISS WITHOUT PREJUDICE**

Hearing conducted on Wednesday, May 14, 2025, before the Arkansas Workers' Compensation Commission (the Commission), Administrative Law Judge (ALJ) Mike Pickens, in Little Rock, Pulaski County, Arkansas.

The claimant, Ms. Alesha M. Dabney, pro se, of Sherwood, Pulaski County, Arkansas, appeared in person at the hearing.

The respondents were represented by the Honorable Lee J. Muldrow, Wright, Lindsey & Jennings, Little Rock, Pulaski County, Arkansas.

STATEMENT OF THE CASE

A hearing was conducted on Wednesday, May 14, 2025, to determine whether this claim should be dismissed without prejudice pursuant to **Ark. Code Ann.** § 11-9-702(a)(4) (2025 Lexis Replacement) and Commission Rule 099.13 (2025 Lexis Replacement).

The claimant herein initially was represented by an attorney, the Honorable Gregory R. Giles. By order filed January 29, 2025, the Full Commission granted Mr. Giles's motion to withdraw as the claimant's attorney of record. Thereafter, on March 12, 2025, the respondents filed a letter

motion to dismiss (MTD) this claim without prejudice with the Commission. (Respondents' Exhibit 1).

Pursuant to the applicable law the Commission provided the claimant due and legal notice of both the respondents' MTD as well as notice of the subject hearing via the United States Postal Service (USPS), certified mail, return receipt requested, which she received on March 21, 2025. (Commission Exhibit 1). The claimant admittedly did not respond in any way to either the respondents' letter MTD or the hearing notice; however, she did appear pro se at the subject hearing. (Hearing Transcript).

After having been duly sworn, the claimant testified she has tried to retain an attorney to represent her in this matter, but to date has been unable to find a lawyer who is willing to represent her. She testified further she was unable to attend the December 30, 2024, appointment with Dr. Crouch which the respondents had scheduled for her due to transportation issues so she personally took the initiative and rescheduled it for February 2025. She was unable to attend the February 2025 appointment because her car was repossessed that month and she had no way to attend the appointment. Thereafter, the claimant rescheduled the appointment with Dr. Crouch for some time in March 2025. She said it was her understanding Dr. Crouch intended to prescribe physical therapy (PT) for her. She testified she had called a "Ms. Milliken" and another person she understood were responsible for handling her workers' compensation claim on the respondents' behalf, but that her call(s) were not returned. The claimant objected to the dismissal of her claim and said she would like to try to obtain counsel to represent her in this matter. (Hearing Transcript, Claimant's Testimony).

The ALJ strongly encouraged the claimant to retain the services of an attorney to represent her in this matter, and told her the Commission had legal advisors with whom she could visit if she so desired. (After the hearing, the claimant was directed to the Legal Advisors Division.)

The record herein consists of the hearing transcript and any and all exhibits contained therein and attached thereto.

DISCUSSION

Consistent with **Ark. Code Ann.** § 11-9-702(a)(4) (2024 Lexis Replacement), as well as our court of appeals' ruling in *Dillard vs. Benton County Sheriff's Office*, 87 Ark. App. 379, 192 S.W.3d 287 (Ark. App. 2004), the Commission scheduled and conducted the subject hearing on the respondents' MTD filed March 12, 2025. The claimant's testimony, other evidence of record, and counsel's argument in support of the MTD revealed the respondents filed the MTD because it was their understanding the claimant had simply failed and/or refused to attend the December 30, 2024, appointment they had scheduled for her and, also, it was their understanding the claimant had not seen Dr. Crouch or any other physician since she admittedly failed to attend the scheduled December 30, 2024, appointment.

The evidence adduced at the hearing further revealed the respondents were unaware of the claimant's position concerning her problem of a lack of transportation; that she had in fact seen Dr. Crouch at least one (1) time in 2025 after rescheduling the appointment herself; or that the claimant alleges she tried to contact a "Ms. Milliken" [sic] or anyone else associated with the respondents regarding rescheduling the appointment with Dr. Crouch or any other issues related to her claim until the claimant testified at the subject hearing. And, of course, the claimant appeared in person pro se at the hearing and requested her claim not be dismissed because it was her understanding Dr. Crouch intended for her to undergo physical therapy (PT).

Therefore, after a thorough consideration of the issues herein, the applicable law as applied to the facts of this claim, and other relevant matters of record, I hereby make the following:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The Commission has jurisdiction of this claim.
2. After having received due and legal notice of the respondents' MTD filed with the Commission on March 12, 2025, as well as notice of the subject hearing date, time, and place, the claimant did not respond in any way to the MTD, but she did appear in person and pro se at the hearing and requested the ALJ not dismiss her claim due to her alleged need for additional medical treatment.
3. Therefore, the respondents' letter MTD filed March 12, 2025, is dismissed at this time. The respondents' may, of course, refile an MTD in the future if they believe they have grounds to do so.

THE CLAIMANT IS STRONGLY ENCOURAGED TO RETAIN AN ATTORNEY TO REPRESENT HER IN THIS MATTER. MOREOVER, THE CLAIMANT MAY VISIT IN PERSON OR CALL THE COMMISSION'S LEGAL ADVISORS DIVISION AT 1-800-250-2511 OR 501-682-2694 IF SHE HAS ANY QUESTIONS CONCERNING HER CLAIM, THE HEARING PROCESS, AND/OR RELATED MATTERS.

If they have not already done so, the respondents hereby are ordered to pay the court reporter's invoice within twenty (20) days of their receipt thereof.

IT IS SO ORDERED.

Mike Pickens
Administrative Law Judge

MP/mp

